

84-0466/9

4 SEP 1984

MEMORANDUM FOR: Chief, Legislation Division
Office of Legislative Liaison

STAT

ATTENTION:

THROUGH: Executive Officer *BW*
Deputy Director for Administration

STAT

FROM:
Director of Security

SUBJECT: Proposed FBI Report on H.R. 4681,
the Brooks Polygraph Bill

REFERENCE: Memo for D/Sec fm LD/OLL, dated 22 Aug 84,
Same Subject (OLL-84-2750/1)

1. The Office of Security has reviewed the referenced memorandum and offers the following comments:

° The FBI states in paragraph three of their proposed report that "polygraph can be abused...if sanctions are imposed based solely on polygraph results...." The letter should be rephrased to reflect that polygraph results consist not only of the charts themselves, but also of the information provided by the polygraph subject. Investigative results must also be carefully considered in the adjudication process. This Agency has always recognized that systematic reliance only on polygraph chart results could easily lead to abuse or danger. Knowing the FBI shares this view, it is suggested they point out in their report the fact that the polygraph is not applied in a vacuum, but is utilized in conjunction with other investigative techniques to resolve security and/or criminal issues.

° Also in paragraph three, the FBI states its belief that its national security responsibilities are, to a great extent, indistinguishable from those of CIA and NSA. This is true. It is precisely for this reason that the FBI ought to be included in the Brooks Bill exemptions. The FBI has the same need as do CIA and NSA to protect intelligence sources and methods. Experience has shown the polygraph to be the single most effective tool in the development of case data resulting in security disapprovals at CIA and NSA. To deny the FBI access to this investigative technique would be to hamstring their counterintelligence and

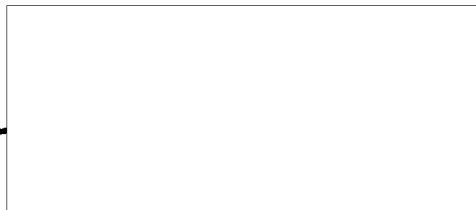
OS 4 1978

criminal operations. The FBI's report should make these points rather than concentrate on the FBI's current, very limited, use of the polygraph.

° The FBI suggests in paragraph four that the prohibition of a polygraph program at certain agencies would detrimentally affect the flow of national security information to those agencies. That does not appear to be the case. The flow of information would not be affected because the job would still have to be done and the information would still have to flow. The point is that if the FBI had a polygraph program (and especially if they had an employee screening polygraph program) the chances of providing classified data to a person who is a security risk would be considerably reduced. As a result, intelligence agencies with sensitive data to share with the FBI could realistically be more comfortable about doing so.

° In paragraph seven the FBI points out that they already have in place an employee agreement contract which includes prepublication review of any information acquired as a result of, or during the course of the employee's official duties/position. The Brooks Bill would prohibit continued use of such an agreement. The FBI's point, stated in paragraph eight, that "in the intelligence and criminal fields the damage is done upon release/disclosure of sensitive information," is well taken. Prepublication review serves not only the interests of the U.S. Government, but also the interests of the individual who might otherwise later be criticized or even prosecuted for having inadvertently disclosed classified information. That should be stressed in the FBI's presentation.

2. This Office appreciates the opportunity to comment on the proposed FBI report. Any questions you may have should be addressed to the Policy and Plans Group on black line



STAT
STAT
STAT